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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,092	11/19/2003	Steve Wang	1315.68260	7286

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EXAMINER

HAYES, BRET C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/717,092

Applicant(s)

WANG, STEVE

Examiner

Bret C Hayes

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/19/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 1 – 11 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: from line 2, “a pair of ends, each of said ends configured for connecting to one of said side panels to form an enclosure”, (*emphasis added*). It is unclear how **two** ends (of the same ‘gate panel’) can be configured to connect to just **one** of the side panels in order to form an enclosure. Examiner suggests removing “one of” before “said side panels”, for clarity.

4. Claim 19 recites the limitation "said fence" in line 2. There is insufficient antecedent basis for this limitation in the claim.

5. Any unspecified claim is rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3644

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1 – 7, 9, 10, 12 – 18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application Publication No. US 2003/0145799 A1 to Hays et al. (*Hays*).

8. Re – claim 1, Hays discloses the claimed invention including a kennel, Fig. 9, for example, comprising: a plurality of side panels, as in Fig. 10, for example, configured for coupling to one another; and a gate panel 312 comprising: a pair of ends, each of said ends configured for connecting to one of said side panels to form an enclosure; a doorway, on the left of Fig. 9, positioned between said ends and defined by at least one doorway frame member 308, and a door 313 configured for opening and closing said doorway and having at least one door frame member 320 directly and rotatably attached to said doorway frame member 308.

9. Re – claim 2, Hays further discloses wherein said door includes a secure fitting 116 directly connecting said door frame member 320 to said doorway frame member 308.

10. Re – claim 3, Hays further discloses wherein said secure fitting 116 encircles at least a portion of said doorway frame member, as at the bottom, to facilitate rotation of said door 313 about a central cylindrical axis.

11. Re – claim 4, Hays further discloses wherein said at least one door frame member 320 includes a horizontal member having an end provided with said secure fitting 116.

Art Unit: 3644

12. Re – claim 5, Hays further discloses wherein said secure fitting 116 comprises a sleeve-like member having an inner portion configured for receiving a vertical frame member, best seen in Fig. 7, for example.

13. Re – claim 6, Hays further discloses wherein said at least one door frame member 320 comprises a pair of horizontal members each having a secure fitting 116 configured for receiving said door 313 and rotating between a closed position and an open position.

14. Re – claim 7, Hays further discloses wherein said doorway comprises: a pair of elongated vertical frame members, a pair of horizontal frame members connected to said vertical frame members to define a central region; and a barrier, the wire, positioned in said central region and connected to said horizontal and vertical frame members, as seen in Figs. 9 and 10, for example.

15. Re – claim 9, Hays further discloses wherein said doorway and said door are integrally formed. It has been held that the term “integral” is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973).

16. Re – claim 10, Hays further discloses wherein said doorway includes an upper frame member and a lower frame member both configured for being slidably engaged on said door, best seen in Fig. 9, for example.

17. Re – claims 12 – 16, see rejections of claims 1 – 7, 9 and 10 above, as applicable.

18. Re – claim 17, Hays discloses, as in Fig. 9, for example, a door 313 for a gate panel of a kennel, comprising: a barrier – the wire; a first elongated door frame member 320 having a central cylindrical axis and connected to said barrier; and at least two door cross-frame members – upper and lower – each connected to first and second frame

Art Unit: 3644

members – the second member being the one opposite **320**, and wherein said first elongated door frame member **320** rotates about said central cylindrical axis.

19. Re – claim 18, Hays further discloses wherein said first elongated door frame member **320** is configured to rotate about said central cylindrical axis between a closed position and an open position.

20. Re – claim 20, Hays further discloses wherein said door cross-frame members each include a pair of bosses, lower and left most portion of Fig. 7, item **116**, for example, configured for engaging a doorway frame member **320**.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hays as applied above in view of US Patent No. 4,422,622 to Broski, Jr. (*Broski*).

23. Re – claim 8, Hays discloses the claimed invention including the barrier comprising a wire grid **100** using wire **102**, except for the barrier being wire cloth.

24. Broski teaches “woven wire fencing fabric section **34**” at col. 2, line 20 in the same field of endeavor for the purpose of constructing fence panels for dog kennels.

25. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hays to include wire cloth as taught by Broski in order to construct a dog kennel.

Allowable Subject Matter

26. Claims 11 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

27. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record neither discloses nor fairly teaches the recited limitations of the claimed invention including, but not limited to: (claim 11) lower and upper frame members each having first and second bosses having inner diameters and configured for engaging a pair of doorway frame members such that the inner diameters of first and second bosses of the upper frame member are greater than the inner diameters of the first and second bosses of the lower frame member; and (claim 19) a plurality of clamps connecting the fastener to a door frame member.

28. This statement is not intended to necessarily state all the reasons for allowance or all the details why the claims are allowed and has not been written to specifically or impliedly state that all the reasons for allowance are set forth (MPEP 1302.14).

Conclusion

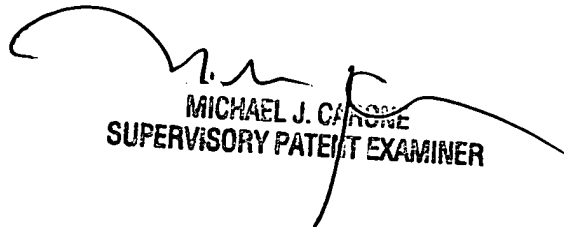
Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

Art Unit: 3644

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached at (703) 306 – 4198. The fax number is (703) 872 – 9306.

bh

8/18/04


MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER